

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

ABDELKARIM ABULHAIJA, ALSO KNOWN OF RECORD AS ABDELKARIM ABU EL HAIJA, ARH & SONS DBA CLOUD CAFE, SP 2014-PR-219 Appl. under Sect(s). 8-502 and 5-403 of the Zoning Ordinance to permit an indoor commercial recreation use (hookah bar). Located at 8490-B and 8496-B Tyco Rd., Vienna, 22182, on approx. 3,600 sq. ft. of land zoned I-4. Providence District. Tax Map 29-1 ((10)) 4 and 8. (Admin. moved from 1/14/15.) Mr. Smith moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 25, 2015; and

WHEREAS, the Board has made the following findings of fact:

1. The owner of the property is the applicant.
2. The present zoning is I-4.
3. The area of the lot is 3600 square feet.
4. The Board commends the applicant for working with the commercial condominium management company. It was an important analysis they provided on the parking issues, the president of the Tyco Park Condominium Association, also an owner, and the analysis done by the Dominion Survey which was then analyzed by the architect and also by the Fairfax County staff.
5. The staff recommends approval.
6. There could be a restaurant or similar use at an industrial site like this, so this is not any more intensive from a parking standpoint, in spite of all the analysis that was done. It is not any more intensive than would otherwise be done by right.
7. It appears that there has been a conscientious effort made to deal with the smoke issues. There is also a development condition to address that, which will require the use of appropriate ventilation for the smoking lounge. That will go through the building plan review process for the Department of Public Works and Environmental Services. That is addressed, as well as the separation that was discussed in conjunction and will be in conformance with the Court of Appeals case that was referenced earlier.
8. There is also a situation where it looks like there is a bit of a staggered use, so in many ways that is a good thing relative to some other uses you might find in an industrial site.
9. There are many reasons to agree with the staff's analysis and recommendation for approval.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. This approval is granted to the applicant only, Abdelkarim Abulhaija, also known of record as Abdelkarim Abu El Haija, ARH & Sons Inc., d/b/a Cloud Café, and is not transferable without further action of this Board, and is for the location indicated on the application, 8490B and 8496B Tyco Road, Vienna, and is not transferable to other land.
2. This special permit is granted only for the purposes, structures and/or uses indicated on the special permit plat titled, "Plat, Showing the Improvements on Phases I, II, & III, Tyco Park," prepared by George M. O'Quinn, Land Surveyor, dated August 7, 2014, provided by the applicant, approved with this application, as qualified by these development conditions.
3. A copy of this special permit and the Non-Residential Use Permit (Non-RUP) shall be posted in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The use shall be in general conformance with the floor plan, included as Attachment 1.
5. Maximum occupancy shall be based on the approved Non-RUP occupancy as issued by the Fairfax County Department of Public Works and Environmental Services (DPWES), and subject to final approval by the Fire Marshal's office but under no circumstances shall the occupancy exceed 100.
6. The maximum hours of operation of the use shall be limited to 11:00 a.m. to 2:00 a.m., daily.
7. Employees shall be a minimum of eighteen (18) years of age.
8. Entry to the establishment shall be limited to customers who are eighteen (18) years of age and older. A door counter shall be present during the hours of operation to validate the age of patrons and to ensure compliance with the maximum occupancy permitted.

9. The number of required parking spaces shall be provided in conformance with the provisions of Article 11 of the Zoning Ordinance, as determined by DPWES. All parking for the use shall be on site of the Tyco Park condo complex.
10. No alcohol shall be served, provided or permitted on-site at any time.
11. No live entertainment shall be allowed on-site.
12. If food is served, the applicant shall maintain a valid food handler's permit with the Virginia Department of Health at all times and the site shall be in conformance with the provisions of said permit at all times.
13. The applicant shall provide appropriate ventilation for a smoking lounge to prevent smoke infiltration into adjacent units through the building plan review process to the DPWES.
14. The site shall be available for inspection by the Fairfax County Office of the Fire Marshal during the hours of operation.
15. All exit doors shall be installed with panic hardware, to the satisfaction of the Fairfax County Office of the Fire Marshal.
16. The use shall be open to inspection by all departments of the County of Fairfax during the hours of operation.
17. The applicant shall complete a Fire Safety Technical Inspection once a year. A copy of the inspection shall be filed with the Fairfax County Department of Planning and Zoning.
18. Prior to approval of a new Non-RUP, a tenant layout plan shall be submitted for review in accordance with the currently adopted Virginia Construction Code.
19. The Non-RUP shall include restrictions on the maximum occupancy permitted, number of permitted tables and the maximum hours of operation.

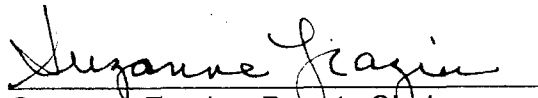
This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, twelve (12) months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning

Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

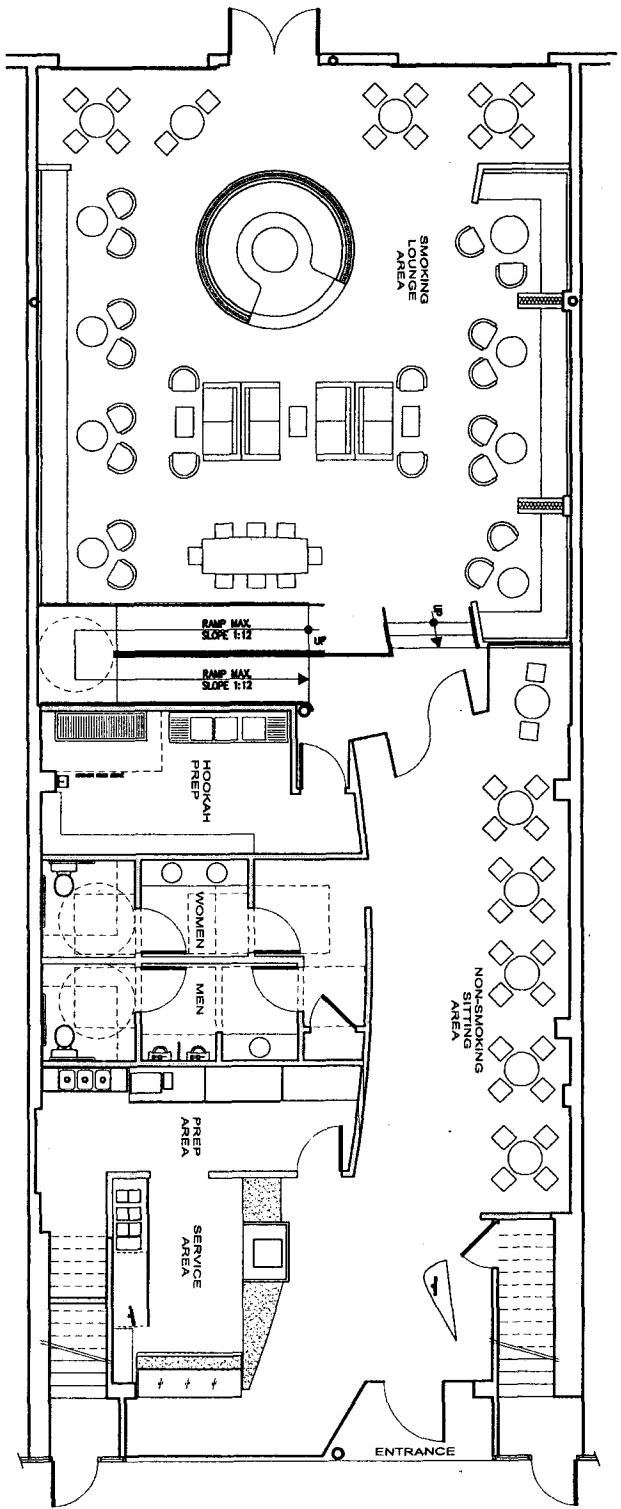
Mr. Beard seconded the motion, which carried by a vote of 6-0. Mr. Byers was absent from the meeting.

A Copy Teste:

A handwritten signature in cursive script, reading "Suzanne Frazier", written over a horizontal line.

Suzanne Frazier, Deputy Clerk
Board of Zoning Appeals

PROPOSED FLOOR PLAN
1/8" = 1'-0"



**CLOUD LOUNGE
TYCO RD. TYSONS CORNER**

BUILDIX